

DRAFT

A meeting of the New Hampshire Water Well Board was held on February 9, 2006 at 9:00 AM, in rooms 112 & 113, 29 Hazen Drive, Concord, NH, 03302.

Present were: Bart Cushing, Chairman

Rene Pelletier, Secretary

Board members: Jeffrey Tasker, Christopher Covell, Thomas Garside, and David Wunsch

Staff: Rick Schofield and Genevieve Al-Egaily

Chairman Cushing brought the meeting to order at 9:06 AM and introduced the Board and staff members.

Approval of Minutes

Upon motion by Mr. Covell and seconded by Mr. Tasker, the Board unanimously voted to accept the amended Minutes of the December 8, 2005 meeting.

Old Business

NHWWA / Bemis Group, LLC

Mr. Schofield reported that on October 13, 2005 Jeffrey Bemis was issued a water well contractor license and pump installer license under the name Bemis Group LLC. In issuing the license, the Board stipulated that he could not use the name McKenna. Following the October 13 meeting the office received numerous calls regarding Mr. Bemis's continued use of the name McKenna and on October 20th he spoke with Don Weiss, an employee at Bemis Group LLC, about the continued use of the name. On October 25th he spoke with Mr. Bemis about the matter and was told that the signs had been changed to McKenna Geothermal. However, when he called Don Weiss on December 20th regarding the references, the name McKenna was still being used.

Chairman Cushing called Mr. Bemis to the table and requested that he explain why he continued to use the McKenna name after being told not to use the name.

Mr. Bemis responded that he intended to continue using the name McKenna Geothermal and that there was a conflict between what he was being told by his attorney about the use of the McKenna name, what he was being told by the Board, and by the state. He stated that the New Hampshire Secretary of State's Office had issued him the name McKenna Geothermal and that he had added Bemis LLC to his signs.

Mr. Wunsch entered the meeting at 9:16 AM.

Mr. Bemis stated that he had been told by his attorney that he could use a DBA in New Hampshire.

Mr. Covell made a motion, which was seconded by Mr. Pelletier, that based on the new information provided from the references, to place Bemis Group LLC on probation. Any

substantive violations of RSA 482-B or the rules of the Board occurring during the probationary period may result in an action against the license including suspension or revocation.

Mr. Pelletier noted that he had previously voted to grant a license to Mr. Bemis and his intent was not to put him out of business. The hearing should be to consider probation.

The motion was then amended by Mr. Covell, and seconded by Mr. Pelletier, to hold a hearing at the next meeting for violation of We 501.02, ethical practices, for false and deceptive practices, and for using a name other than the one issued by the Board. The amended motion was unanimously passed by the Board.

The New Hampshire Water Well Association had requested an investigation of Mr. Bemis' s references.

Mr. Schofield reported that he had contacted all four of Mr. Bemis' s references. Mr. Wentzel, Mr. Henry, and Mr. Weiss had affirmed that the information provided on their references was correct and that he had 3 years experience constructing wells and 20 years of experience installing pumps. Mr. Follett had revised his reference stating that in his opinion Mr. Bemis had zero years of experience drilling wells and zero experience installing pumps.

The Board noted concern that the references were not provided by individuals who had been Mr. Bemis's supervisors. The references had been provided by individuals who had worked for or were currently working for Mr. Bemis.

Chairman Cushing noted that Mr. Bemis had claimed that he had received experience in New York with Hanson Well Drilling and Bucky Moore Well Drilling. He had spoken with Tom Hanson who stated he had never had Mr. Bemis in his employee. Mrs. Moore stated that she did not remember him. However, she thought she may remember the name in relation to water filtration.

Upon motion by Mr. Pelletier, and seconded by Mr. Tasker, the Board unanimously voted to hold a public hearing on Mr. Bemis's qualifications and experience at the next board meeting.

Western Maine Water Wells Inc – Bruce Champney

Mr. Schofield reported that at the last meeting Western Maine Water Wells Inc. filed three additional well completion reports. Nine other reports needed additional information, which had been provided. The business has received the Certificate of Existence and was now registered with the Secretary of State's Office. As requested by the Board, attorney Hodes had provided a statement that his client was now up-to-date and in compliance with the reporting requirements.

Upon motion by Mr. Covell and seconded by Mr. Tasker, the Board voted that no further action would be taken in this case.

Discussion on Post Hydro-fracturing Yield Tests

Mr. Schofield reported that in August John Dutra had petitioned the Board to adopt regulations to insure that reported yields after Hydro-fracturing were accurate. At the last meeting, Mr. Schofield had conducted the brief survey to determine how the industry measured the yield, and reported the findings to the Board. He stated that he was concerned about the use of a recovery

test because he believed it would not give the sustainable yield. Mr. Schofield suggested that the Board had two options. Rules could be adopted requiring a pump test for a required period of time, or enforcement could be used, if a determination was made that a reported yield was grossly inaccurate and constituted a material false statement on the report. The Board would have to establish criteria in rule to make that determination. DES could then issue an administrative order or a fine for making a material false statement on a report.

Chairman Cushing felt that We 602.11 (d) and (e) would address the problem and that the rule simply needed to be enforced.

Mr. Schofield noted that We 602.11 (d) also gave water well contractors the opportunity to circumvent the rule, which could make it impossible to enforce.

Mr. Covell and Mr. Wunsch agreed to look into the problem of low yielding wells and report back to the Board.

L&L Riverside Inn Landon Placey / Stewartstown

Mr. Schofield reported that a new well had been drilled for the L&L Riverside Inn, owned by Landon Placey in West Stewartstown, to replace the well he had dug himself. Mr. Placey and he had worked with Bill Sima on the placement of the well, and a water quality test had been taken on January 25th, which showed no coliform or E coli bacteria.

The Board determined that the case should be closed.

Complaints

Nancy Randlov / Fowler Well Drilling

Mr. Schofield reported that Luke Fowler had drilled a well to furnish water to Nancy Randlov's barn. The well, which took three months to drill, was reported to be 62 feet deep and finished in overburden. The water quality had been unacceptable and the horse would not drink the water. A new well had been drilled by Capital Well, which was located 75 feet away from the Fowler well and had a yield of 6 gallons per minute.

Chairman Cushing called Mr. Fowler to the table.

Mr. Fowler stated that the well had not turned out as well as he had thought it would. The well had pumped water but then slowed way down. The well currently yields 4 gpm. He also stated that the contractor not Nancy Randlov had hired him. The contractor understood that he had little time to devote to working on the well because he was in the process of building a house so it would take a long time to complete. He stated that the first time he met Nancy Randlov she insisted that he finish the well right away or she would hire someone else. Mr. Fowler stated that he and Nancy Randlov had a verbal agreement that he would pay back \$2200 of the \$4200 he had charged for the well and she would use the well for irrigation. He had not yet refunded her money and he did not know if she still excepted the terms of their verbal agreement. When asked by the Board about the construction of the well, Mr. Fowler stated that there was no screen. The well was an open-ended pipe that he felt was in clean gravel.

The Board expressed concern about the water quality and its safety and suggested that the well be decommissioned by Mr. Fowler if Nancy Randlov did not want to use it. Mr. Pelletier proposed a motion which was seconded by Mr. Wunsch to give Mr. Fowler 30 days to come to an agreement with Ms. Randlov or the Board would schedule a hearing for the next meeting. Upon consideration the motion was amended by Mr. Pelletier, and seconded by Mr. Wunsch, to give Mr. Fowler until February 28 to come to a settlement with Nancy Randlov.

Upon motion by Mr. Pelletier and seconded by Mr. Wunsch, the Board voted unanimously to allow Mr. Fowler to come to settlement agreement with Nancy Randlov by February 28. If no settlement agreement was reached, the Board would schedule a hearing for the next meeting.

Reporting

Fowler Well Drilling-Luke Fowler

Mr. Schofield reported that in June 2005 the Board had determined that several water well contractors would be invited to the August meeting to discuss their reporting. Mr. Fowler had been unable to attend a meeting until now. From 2001 to the present, only two reports had been filed by Mr. Fowler.

Chairman Cushing invited Mr. Fowler to the table to discuss his reporting with the Board. The Board then inquired if Mr. Fowler had drilled more than two wells since 2001.

Mr. Fowler stated that he may have drilled five wells since 2001 and did not report three of the wells. He also stated that he could file those reports by the end of February.

Upon motion by Mr. Covell and seconded by Mr. Pelletier, the Board unanimously voted to require Mr. Fowler to submit reports for all of his previously unreported wells by February 28 and to place Mr. Fowler on probation for two years.

Complaints

Heath / Policy Well & Pump

Mr. Schofield reported that he had received a complaint from Bruce Heath. Mr. Heath had stated that his pump, which had a five-year warranty and had failed 4 years and 3 months after being installed. Policy Well and Pump who had installed and provided the warranty on the pump had refused to repair or replace the pump under the warranty. They had claimed that the pump was eighteen years old. However, Franklin Electric, the pump manufacturer, stated that the pump was only four years old. Mr. Heath had hired Main Line Plumbing and Heating to replace the pump the following day at a cost of \$2370. Mr. Heath was requesting that Policy Well & Pump give him a refund \$768 the price of the original pump.

Chairman Cushing called Mr. Heath to the table.

Mr. Heath stated that after calling Main Line Plumbing and Heating he realized that the pump was still under warranty with Policy Well & Pump. Main Line Plumbing and Heating pulled up the pump and the following day Mr. Heath took the pump to Policy Well & Pump where he was informed that the pump was eighteen years old and they had suggested that he had tampered with it. He stated that there had been no work done on the pump prior to being pulled up by Main

Line. He had checked with Franklin Electric to determine the age of the pump motor and was told that the pump was four years old. He stated that he wanted \$768 the cost of the original pump.

Upon motion by Mr. Pelletier and seconded by Mr. Covell the Board unanimously voted to require Policy Well & Pump to reimburse the Heaths for the list price at the time the work was done of a Goulds 7GS07422 pump.

Nolan / Judd Goodwin Well Company

Mr. Schofield reported that Goodwin Well Company had installed a well and pump on September 4, 2002 for the builder. On November 15, 2005 Kevin Nolan, the homeowner, lost water and hired Downeast Drilling to service the water system. When the pump was removed several violations were found which was determined to be the likely cause of the chafed wires and subsequent pump failure. The pump wire was taped to the water service pipe at intervals between 40 and 50 feet, the pump ground wire was not attached to anything at the wellhead, and the wire connections were made with wire nuts instead of heat shrink tubing.

Chairman Cushing called Kevin Nolan to the table.

Mr. Nolan stated that the well had been drilled in September of 2002 and he had moved in during November of that year. He had received an invoice for the well, which contained no yield information. However, he had subsequently found out that the yield was reported to have been 6 gallons per minute. He did not believe that this was accurate since during the spring of 2003 he had attempted to water his lawn seed and had run out of water within an 1 1/2 hours. He stated that he had tried to contact Goodwin Well Company prior to calling Downeast. The well was serviced by Downeast on November 16, 2005.

Chairman Cushing called the representative from Goodwin Well Company to the table.

Lucian Fitts stated that he believed they had installed the pump however the invoice did not show the pump work. He stated that it would be unusual for Bob Bollinger to have someone else installed the pump and that the exclusion of the pump on the bill may have been an oversight because it was a flat rate contract. Mr. Fitts stated that Tony Knox was the pump installer. Staff noted that Mr. Knox was not licensed.

The Board suspended the proceedings until the next meeting in order to have the licensee Mr. Goodwin and his pump installer Mr. Knox present to answer questions and show the necessary invoices and documents.

The Board also suggested that if Goodwin Well Company did install the pump they should reimburse Mr. Nolan for the work done by Downeast. The Board did not feel that Mr. Nolan should be required to wait an additional two months to be reimbursed. A copy of the invoice for the work done by Downeast would be provided to Goodwin Well Company.

The Board also noted that the well completion report lacked accurate and sufficient address information and that the well log was improperly filled out.

Davis / Yankee Water Systems Inc

Mr. Schofield reported that Yankee Water Systems had been hired by the Davis' to repair an existing point well but was unable to repair the well. They were then hired to drill a new well. While drilling the well the drill rig tipped over causing damage to the driveway and additional damage was caused to the driveway by the equipment used to right the rig. The well had been abandoned by Yankee and the Davis' were left without water for 17 days before the new well and pump system was completed. Sediment from the new well clogged the plumbing in the house and Yankee Water Systems advised Mr. Davis to call a plumber to flush the system at an additional cost of \$713 to Mr. Davis.

Chairman Cushing called Loren Davis to the table.

Mr. Davis stated that they had good water in their existing well but they were having problems with the pump. Yankee Water Systems had been hired to fix the problem but were unable to do so. While attempting to drill a new well the drill rig had tipped over spilling diesel fuel. Yankee proceeded to clean up the soil and leaves where the fuel had spilled. However, the smell of the fuel remained. He had called DES about the spill and Bill Evans had come to investigate. He also stated that as a result of the drill rig tipping over \$900 of damage had been done to his 1-year-old driveway. They had been left without water for 17 days before the new well was completed. Once the well was completed, they were told they could flush toilets and run the water but they should not drink it. The waterlines became clogged with sand and silt from the new well and Yankee told them to hire a plumber to flush the system. They had paid \$713 to have the plumber flush the system. Sand and silt were still coming through. They were then told that the pump might be set too low so that it was kicking up sediment. Mr. Davis presented the Board with a clogged filter and some sediment that came from the plumbing.

Chairman Cushing called Claire Champney to the table.

Ms. Champney stated that the new well was an open-ended gravel well and the old well had been a packer well which they were unable to repair. The casing of the first well that they were in the process of drilling when the rig tipped over had been damaged and the ground was not stable enough to get the rig over the hole which was why they had decommissioned the well. When the rig tipped over she had tried to subcontract a new well for Mr. Davis but was unable to find anyone who could do the job and had offered to let him out of the contract. Mr. Davis did not choose to hire someone else and the rig needed to be repaired before a new well could be drilled. Ms. Champney stated that the only damage had been to the driveway and that no fuel had been spilled. The fire department had come to the site and requested that they drained the fuel. The smell was from fuel being pump out. The topsoil had not been removed but they had raked the property. Some brush had also been removed to bring in the rig to drill the well. Ms. Champney stated that they do not do excavation work but Mr. Davis had not hired an excavator so they had agreed to do the work. The site was quite wet and dirt may have gotten in the waterlines. However, she believed that added water pressure was causing abrasion in the old pipes.

Mr. Schofield reported that Mr. Evans had stated that it was a minor incident and that he did not believe DES would follow up.

The Board felt that Yankee Water Systems should pay the plumber's bill and should also pay for a TPH water test. They also suggested that she should contact her insurance carrier and have

them take care of the damage claim for the driveway. The Board made several suggestions regarding ways that the sediment issue could be handled.

Ms. Champney stated that she would pay the plumber's bill and she requested that she be provided with a copy of the bill. She also stated that she would call her insurance carrier about the driveway. She stated that Yankee Water Systems would be willing to pull the pump up and put pea stone in the well to help with the sediment problem.

Upon motion by Mr. Covell and seconded by Mr. Garside, the matter was continued until a satisfactory completion was reached.

Grenier / D & S Farm Builders LLC

Mr. Schofield reported that on January 17, 2006 he received a complaint from the Greniers who had purchased a home from D & S Farm Builders at 365 Avery Hill Road, Alton. They were given a water quality report prepared by Aqualab, which showed that there were only minor problems with the water. After moving in, they discovered that the water quality was extremely poor and had the water tested by Nelson Analytical Laboratory. The test had shown severe problems with the water quality so the Greniers had contacted the filtration company. The Company suggested that they contact the Water Well Board. A site visit was conducted on January 23rd and the well was found to be a 28 inch diameter dug well, located 75 feet from the septic system, and 18 feet from the property line. A culvert pipe had been used as casing. The iron problem was extremely bad and the water quality report had also showed manganese, arsenic, and coliform.

Chairman Cushing called the Greniers to the table.

David Grenier stated that when they bought the house in Alton they had received the water quality test results 10 minutes before closing. Those test results were not the same as the results of the water quality test was done by Nelson Analytical.

Rose Anne Grenier stated that the water had been shut off when they bought the house. They had assumed that the high iron content was the result of the water having been shut off and the water would clear in a few days.

Chairman Cushing called Dana Frenette and his counsel Brad Helfer to the table.

Attorney Helfer stated that they wished to resolve this matter and hoped to get some ideas for a resolution.

Mr. Frenette stated that this was the first dug well that he had installed in New Hampshire and he was not aware that a license was required. He also stated that he would like a third party water quality test to be conducted. The well was constructed with a two foot culvert pipe and a plastic cover with a rubber seal all the way around. His septic designer had suggested that this would be a good place for a dug well.

Chairman Cushing stated that he did not believe that the culvert pipe would be NSF approved and even if another water quality test was conducted and the water was fine, the construction

products were not acceptable so the well need to be abandoned. He also asked Mr. Frenette why his water quality test had not included bacteria.

Mr. Frenette stated that he did not know why the sample had not been tested for bacteria.

Mr. Covell noted that arsenic, lead, and copper are three of the most toxic metals on earth and are included in the Superfund Resource Conservation Recovery Act. All three were found in the water samples taken by the Greniers.

The Board requested that Mr. Schofield conduct an inquiry to determine if Mr. Frenette had constructed any other wells. The Board then suggested that Mr. Frenette abandon the well, have a new well drilled by a licensed water well contractor, have a water quality test conducted on the new well by a state approved lab, and restore the site.

Upon motion by Mr. Covell and seconded by Mr. Tasker, the Board unanimously voted to refer the matter to DES.

Rules

Mr. Schofield reported that he had met with Karla McManus and Debra Sonderegger, the Water Supply Engineering Bureau's rulemaking staff and they would need the initial draft by November 9, 2007.

The Board decided that each member would review the issues and give suggestions during a 4 hour rulemaking meeting to be scheduled in May.

Continuing Education

Mr. Schofield reported that a continuing education program had not yet been put together for this year. John Lukin had been contacted about doing a continuing education class. However, he may not be available. Currently, the rules require that the continuing education be related to wells, pumps, or water conditioning. In the past, classes had covered electrical wiring, pump tests, plumbing, service work, and tank sizing. However, Mr. Schofield suggested that the Board might wish to consider giving credits for additional topics that maybe beneficial to the industry such as geology and how it relates to water quality. He also stated that he had received calls requesting another continuing education class on electrical wiring.

The Board did not believe that the continuing education training should be the responsibility of the Board or DES staff since there were other opportunities to obtain the credits such as the New England Water Well Expo, which was to be held on March 25-26 in Marlboro MA, and the Earth Day event being held in Ossipee on April 22. Concerns were raised that some of the training was nothing more than a sales pitch and that the Board should be cautious about what credit should be given for. The Board felt that if a particular deficiency in the industry was identified then a continuing education training program should be presented to address the issue. The Board felt that posting continuing education opportunities on the Water Well Board web site would be sufficient.

Licensing

New Applicants

Mr. Schofield reported that there were no new applicants.

Gap Mountain Drilling LLC Petition for License Exam

Mr. Schofield reported that the application had been withdrawn.

New Business

SB359-FN / Rulemaking Plu 300

Chairman Cushing reported that the Plumbers' Board had spoken against senate bill SB359-FN and that the bill had failed.

Program Enforcement Merging w/ WSEB Enforcement Unit

Mr. Schofield informed the Board that the water well program enforcement activities had been merged into the Water Supply Engineering Bureau enforcement unit. This would allow him to work with Selina Makofsky and Alan Leach and receive some assistance from their program. An additional benefit from the merger would result in cases now being tracked electronically.

Report on Road Salt and BTEX in Public Water Supply Wells

Mr. Schofield reported that DES staff Diana Morgan had compiled a report on the percentage of public water supply wells that showed contamination from road salt and BTEX in relation to their distance from roads, driveways, and parking lots. He presented a brief report on her findings and suggested that the Board may wish to consider adopting rules requiring a 50 foot setback from any roadway. He also stated that the non-conforming well location forms were being filed without information pertaining to the special construction details.

Maine Water Well Commission

Mr. Schofield reported that he had received a letter from the Maine Water Well Commission regarding setbacks, the required approvals, and notifications in the state of Maine and their concerns that the regulations are not being followed.

The Board requested that the issue be addressed by printing the requirements in the news letter and that Mr. Schofield notify the Maine Water Well Commission of their decision.

The meeting was adjourned.